

GAMING UPDATE

Volume 12, Edition 1

January 1998



LEGISLATURE TO BEGIN WORK JANUARY 7TH

The Nebraska Legislature will begin its 1998 session on January 7th, and once again may very well be dealing with issues that will directly affect our gaming licensees. **Declines in charitable gaming wagering** in Nebraska (see related article on page 5) and the impact felt by nonprofit organizations which rely on such revenues will surely be at issue. Possible **attempts to expand the available forms of gaming** in Nebraska (such as video gaming) will also likely surface. **Since this is the second session of the Ninety-fifth Legislature**, many bills which were not acted upon last session survived and were "rolled-over" to this session. Following is a list of the gaming-related bills from last session which are **still active** as this session begins:

- LB 522 To permit electronic pickle card and keno devices;**
- LB 534 To authorize a county, city, or village to conduct games of chance under the Nebraska County and City Lottery Act;**
- LB 627 To increase the number of bingo occasions permitted to be conducted per week/premises; and**
- LB 732 To authorize specialized pickle card games which are sold only at a bingo occasion.**

If you are interested in obtaining copies of the above legislative bills or any other bills or constitutional amendments introduced during the session, you can do so by contacting the **Legislative Bill Room through its 24-hour Request Line (402) 471-2877**. Callers are asked to provide the bill (LB) or constitutional amendment (CA) number of the legislation they wish to receive. Unless another year is specified, copies of the bills for the current session will be mailed. **Subscriptions for copies of every bill** and the daily journal are also available **for a fee**. Anyone interested in this service should write the **Clerk of the Legislature, Room 2018, State Capitol, Lincoln, NE 68509, or telephone (402) 471-2608**.

In addition, during the legislative session answers to questions about the status of bills or other information about bills can be obtained through the **Legislative Hot Line. In Lincoln call 471-2709; all others call 1-800-742-7456**. The Hot Line is staffed from 8 a.m. to 5 p.m. weekdays (other times, a recorded message of the next legislative day's agenda will be heard). This service is also available to the hearing or speech impaired.

The Nebraska Legislature also has an Internet home page which can be accessed at **<http://unicam1.lcs.state.ne.us>**.

THIS ISSUE CONTAINS

Administrative and Court Actions ...	4
Decline in Gaming Continues	5
County/City Lottery News Briefs	6
Fines for Late Filings	7
Dispensing Device Study Group to be Appointed	7

Personnel Changes

Mike Goodwillie, legal counsel for the Charitable Gaming Division since its inception in 1986, has moved on to a new job. Last October Mike joined the Department's Property Tax Division to serve as its legal counsel. Mike's 11 years of expertise in gaming law will be greatly missed, and we wish him well in his new position.

Todd Bornhoft of the Department's Legal Division has been tabbed to fill Mike Goodwillie's legal shoes. Todd has been with the Department since 1990 and has developed significant expertise in gaming as well. Some of you may remember Todd from his days with the Charitable Gaming staff handling county/city lottery licensing and other keno matters. In 1994, Todd resumed full-time duties with the Legal Division, dividing his time between sales and use tax and motor fuels issues, as well as assisting on gaming-related matters as needed. **Todd can be reached in the Lincoln office at (402) 471-5925.**

Ron Boardman joined the Investigation Division last October. Ron will be involved primarily with State Lottery-related duties; however, he will also be assisting with charitable gaming investigations as needed. Ron comes to the Department of Revenue following a 25 year career with the Nebraska State Patrol. He will be working

investigations primarily in the eastern portion of the state. **You can reach Ron through the Lincoln office at (402) 471-6125.**

New Statute Booklets Now Available

Due to legislative changes which became effective October 1, 1997, **the charitable gaming acts (statute booklets) have all been revised.** Last October, the Charitable Gaming Division mailed new statute booklets to all licensed organizations holding bingo, pickle card or lottery/raffle licenses. Additionally, in November new statute booklets were mailed to all counties, cities, and villages conducting a lottery, and to their respective lottery operators.

Although we did not send statute booklets to individual license holders such as utilization of funds members, bingo chairpersons, gaming managers, or sales agents, nor to pickle card operators or county/city lottery sales outlet locations, **copies are available free of charge to anyone upon request.**

To obtain a copy of any of the revised acts, simply **give us a call at (402) 471-5937 or write** to the Charitable Gaming Division of the Nebraska Department of Revenue, 301 Centennial Mall South, P.O. Box 94855, Lincoln, NE 68509-4855. **Please make sure you specify which acts you are interested in receiving.**

NEBRASKA DEPARTMENT OF REVENUE

STATE TAX COMMISSIONER — M. BERRI BALKA

Charitable Gaming Division Administrator — Jim Bogatz

Investigation Division Administrator — Greg Schnasse

**Charitable Gaming Division Managers — Steve Schatz, Policy/Licensing
Gerald Otoupal, Audit**

WHO TO CONTACT FOR

Audits, Annual and Quarterly Reports, and Tax Returns

Gerald Otoupal	471-5940
Gene Weiner	471-5953

Pickle Card Receipt Books

Mary Gropp	471-5937
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Licenses, Authorizations, Permits, Device Decals, and Forms

Sharon French	471-5939
Carri Fitzgerald	471-5949

Bingo, Pickle Card, and Lottery/Raffle Game Conduct

Deb Weber	471-5944
Steve Schatz	471-5943

County/City Lottery Licensing and Game Conduct

Steve Schatz	471-5943
Linda Knox	471-5945

County/City Lottery Audit and Tax Returns

Gerald Otoupal	471-5940
Pete Andersen	471-5936

Investigations, Complaints, and Fingerprints

Greg Schnasse	471-5941
Mike Olsen	471-5948

Inspections

Merle Reiling	471-5947
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Legal Proceedings

Todd Bornhoft	471-5925
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Do You Have Your 1998 Decal Yet?

HAPPY NEW YEAR! The staff of the Charitable Gaming Division hopes this finds all of our licensees healthy and happy (and legal)!

It's 1998 and you may be asking yourself "Where did 1997 go?" You may also be wondering where your **1998 Pickle Card Dispensing Device Decal** is. If you sell pickle cards through a coin or currency-operated device, the 1998 decal should already be on your device. **If your machine does not have a 1998 decal affixed to it, you must take that device out of play until you have received the decal.** No pickle cards may be sold from any dispensing device that is not properly registered with the Department. **The 1998 decal has a lavender background with black lettering.**

In mid-October, the Department mailed a Nebraska Registration and Report of Pickle Card Dispensing Device, Form 50F, to each pickle card operator and organization that had registered a device during the 1997 year. **If you did not receive a registration renewal form or you need additional forms, please contact the Charitable Gaming Division.**

The annual registration fee is \$50.00 for each dispensing device. The responsibility for registering a device depends on where the device is being used. If a device is used at the location of a licensed pickle card operator, the responsibility lies with the pickle card operator even though the device may not be owned by the pickle card operator. If a device is used at the designated premises of a licensed organization or at the location of its regularly scheduled bingo

occasion, the licensed organization is responsible for registering the device.

If you have registered a pickle card dispensing device in the past, you may have noticed some changes to the Form 50F. First is an area entitled **FOR DEPARTMENT OF REVENUE USE ONLY** following the Type of Application. This area is used to indicate (a) whether a **PENALTY** has been imposed (using a pickle card dispensing device without the device being properly registered can result in a \$30.00 penalty per device), or (b) whether the registration of a new device is a **transfer** or **replacement** request. This information is to be completed only by Department of Revenue personnel.

Another change deals with the information to be provided if the device is being leased. As before, we still require the identification of the **name of the lessor and the lease period and a copy of the lease agreement**. If you are renewing the registration of a device, you need not submit another copy of the lease agreement unless modifications have been made to the lease agreement. On the new Form 50F we are also requesting that you **identify the Nebraska Identification Number of the Lessor** (the organization or business leasing the device to you). This information should be obtained from the lessor prior to submitting the application. **Please make certain that you use the current version of the Form 50F** when registering a pickle card dispensing device. In the lower right-hand corner of the Form 50F is a form number and revision date. **The current form is 9-062-88 Rev. 8-97.**

Cancellations Need to be Reported

Have you decided to discontinue your charitable gaming activities? If so, you **must notify our office** that you have discontinued the activity or, if applicable, that you are no longer in business. Keeping our office informed will enable us to maintain more accurate records and will minimize the amount of unnecessary paperwork sent throughout the year, such as quarterly reports and tax returns, year-end annual reporting forms, or license renewal applications.

In order to cancel any license throughout the course of a license year, our office must receive:

- **Pickle Card Operator:** A **written request** from an **owner, partner or corporate officer** of the business licensed as a pickle card operator.
- **Licensed Organization:** A **written request** from an **officer** of the organization.
- **Pickle Card Operator Authorization:** A **written request** from the licensed organization's

utilization of funds member. In addition, the organization should **retrieve the authorization** from the pickle card operator and return it along with the written request for cancellation.

All licenses originally issued by the Department must be returned to our office so that they can be officially destroyed.

Depending on the particular gaming activity you are discontinuing, it may be necessary for you to contact our office in order to obtain assistance in the destruction of any **remaining pickle card inventory** you have or to obtain the required approval from the Department prior to selling any bingo equipment you may have been using.

If you have any questions on the procedures to follow in order to cancel your licenses, feel free to contact the Charitable Gaming Division for individual assistance.

Administrative and Court Actions

The following cases reached final administrative determination or court decision since the last **GAMING UPDATE**:



Central States Foundation v. Balka, et. al., Lancaster County District Court, Docket 544, Page 230. This case originally arose because of the Department's audit of Youth Athletic Association. During the course of that audit, the Department requested records from Central States Foundation, a donee of Youth Athletic Association, to determine whether the donations were used for a lawful purpose. Central States sued the Department to enjoin it from obtaining the records on the theory that the Nebraska Pickle Card Lottery Act did not give it the authority to examine the records of an entity not licensed under the Act. In an order dated October 14, 1997, the District Court determined that the Act did give the Department the authority to examine the uses to which third party recipients of pickle card funds put the proceeds in order to ensure compliance with the Act. The court went on to dissolve a temporary injunction on behalf of Central States which had been previously entered in the matter, denied the motion for permanent injunction sought by Central States, and dismissed its petition. Central States appealed this matter to the Nebraska Court of Appeals on November 12, 1997.



In the Matters of Nebraska Softball Foundation, Jeffrey Hansen, O.W. Smith and Charles Burney, Docket Numbers 97-002-35G, 97-003-35G, 97-004-35G, and 97-005-35G. Based on a complaint by the organization regarding the alleged use of pickle card funds by a sales agent for his personal benefit, the Department commenced an investigation of the uses to which pickle card funds were being put by the Nebraska Softball Foundation and the role in the use of those funds played by its utilization of funds member and several sales agents. As a result of the investigation, the Department filed administrative actions seeking to revoke the license of the organization as well as those held by the utilization of funds member and two sales agents. The Department alleged that the organization, through the individuals involved, was using pickle card funds to pay league fees for adult athletic teams sponsored by the organization's pickle card operators in Norfolk and Omaha which normally would be an expense borne by the operator. Additionally, other personal

expenses, in the form of YMCA dues, were paid for several pickle card operators in the Norfolk area. If true, such payments would constitute impermissible compensation for the pickle card operators involved since they received a financial benefit in excess of the 30% operator's commission allowed by the Nebraska Pickle Card Lottery Act. The payments would also constitute illegal inducements to obtain pickle card operator accounts.

Prior to hearing, the parties agreed to settle the cases. Without admitting liability, the individuals involved gave up their licenses and agreed not to seek pickle card licenses in the future. The organization, also without admitting liability, agreed to stop pickle card sales in Norfolk and Omaha for one year and to pay an administrative fine of \$50,000. Further, the organization agreed to additional financial controls, including the hiring of an executive director to oversee the pickle card operation, Department approval of the request form used for outside donations, and the approval of outside donations for a period of one year. The Settlement Stipulations and Orders of Dismissal were completed on October 14, 1997 and the fine was paid on October 21, 1997.



In the Matter of Touchdown Sports -- Ogallala, Docket Number 97-010-35G. This case concerned the Department's intended revocation of the pickle card operator and county/city lottery sales outlet location licenses held by Touchdown Sports because of a previous gambling conviction by the owner. Following an administrative hearing, but prior to a decision, the parties agreed to settle the matter. In return for dismissing the action, the owner agreed to secure a fidelity bond to protect Keith County from any losses resulting from the owner's possible misconduct. The dismissal was entered on October 14, 1997.



In the Matter of Sprague Country Club -- Sprague, Docket Number 97-013-35G. This case involved allegations that a keno sales outlet location extended credit to a player in excess of \$100,000 in violation of the Nebraska County and City Lottery Act. Following the filing of the Department's Motion to Revoke the sales outlet location license, the proprietor of the Sprague Country Club surrendered the license. The revocation was finalized in a July 15, 1997 order.

Omaha Crusaders, Inc. v. Nebraska Department of Revenue, Lancaster County District Court, Docket 561, Page 186. This case concerned allegations that a licensed organization failed to submit completed annual reports to the Department in violation of the Nebraska Bingo Act and the Nebraska Pickle Card Lottery Act. Following the administrative hearing at which the organization did not appear, the Tax Commissioner imposed a fine of \$2,000 in an order dated August 29, 1997. Despite the fact that it defaulted at the administrative level, the organization appealed the case to Lancaster County District Court where it is currently pending.



In the Matter of GFP Management, Inc. d/b/a Sports Denn -- Norfolk, Docket Number 97-018-35G. This case involved allegations that a pickle card operator issued insufficient funds checks to purchase pickle cards from a licensed organization on several occasions in violation of the Nebraska Pickle Card Lottery Act. Prior to hearing, the Department and Sports Denn entered into a Settlement Stipulation. Without admitting liability, Sports Denn paid a \$1,000 fine and agreed to make future purchases of pickle cards by an alternate method approved by the Department. The stipulation was approved by order of the Tax Commissioner on October 3, 1997.



In the Matter of Veterans of Foreign Wars #5283 -- Hartington, Docket Number 97-019-35G. This case involved allegations that a licensed organization sold and delivered pickle cards to an unauthorized pickle card operator in violation of the Nebraska Pickle Card Lottery Act. Without admitting liability, the organization paid an administrative fine of \$150. The case was dismissed on October 6, 1997.

In the Matters of Beaver City Jaycees and Penny Stalder -- Beaver City, Docket Numbers 97-020-35G and 97-021-35G. These cases involved allegations that a licensed organization, through its sales agent, sold and delivered pickle cards to an unauthorized pickle card operator and that the sales agent accepted cash payments for pickle cards from another pickle card operator, both of which are violations of the Nebraska Pickle Card Lottery Act. Without admitting liability, both parties executed Settlement Stipulations which provided for sixty day suspensions of their respective licenses. The stipulations were approved and cases dismissed by order of the Tax Commissioner on October 14, 1997.



In the Matter of LaVista Lottery, Inc. d/b/a La Vista Keno -- LaVista, Docket Number 97-023-35G. This case involved allegations that a county/city lottery operator conducted keno games during portions of a two-day period with only 75 balls in its electrically operated blower machine in violation of the Nebraska County and City Lottery Act. Without admitting liability, the lottery operator paid an administrative fine of \$500. The case was dismissed on October 28, 1997.



In the Matter of Ayers Distributing, Inc. -- Kearney, Docket Number 97-025-35G. This case concerns allegations that a pickle card distributor sold and delivered pickle cards to an individual who was not a licensed utilization of funds member in violation of the Nebraska Pickle Card Lottery Act. Without admitting liability, the distributor paid an administrative fine of \$500.00. The case was dismissed on October 29, 1997.

Continued Decline of Charitable Gaming in Nebraska

Overall wagering on charitable gaming activities in Nebraska has declined by more than 28% since March, 1995 when casino gambling first came to Council Bluffs, Iowa. Prior to the competition from these casinos, charities and communities in Nebraska reaped profits from approximately \$400 million in charitable gross wagers annually. Profits to the charities and communities averaged approximately 10% of the gross wagers. Wagering on charitable gaming activities has declined to just over \$293 million for the fiscal year ending September 30, 1997. This decline in charitable wagering has decreased the funds available to communities and charities by nearly \$12 million per year!

Whether the decline in gross wagering has stopped is a question which remains unanswered. However, based on informal reports received by the Charitable Gaming Division from a number of charities, it would seem that the decline in pickle card sales has not yet bottomed out.

Pickle card activity has clearly declined more than bingo, with a decrease in gross wagering of over 36% compared to the decline in bingo gross receipts of less than 15%. The major decrease in profits for charities conducting bingo games has resulted from decreased sales of pickle cards at the bingo games. Only time will tell where the future of charitable gaming lies.

County/City Lottery News Briefs

- ❑ **Total dollars wagered on keno** for the period October 1, 1996 through September 30, 1997 were **\$159,168,457**. This represents a decrease of approximately eight percent as compared to the total dollars wagered for the previous twelve-month period. Total dollars wagered on keno for the period July 1, 1997 through September 30, 1997 were \$37,896,312 which represents a decrease of approximately three percent as compared to the previous quarter, April 1, 1997 through June 30, 1997 (\$39,079,627).
- ❑ **The Villages of Otoe and Sprague** have discontinued their county/city lottery activities since our last publication. The **Village of Ong** resumed its county/city lottery activity in August. The **City of Papillion** terminated its lottery operator agreement with Papio Keno Club, Inc. on September 30, 1997.
- ❑ New county/city lottery licenses have been issued to the **Village of Blue Springs** and its lottery operator, Blue Springs Keno Lottery.
- ❑ The **Village of Nehawka** and the **City of Oshkosh** held elections in August and September respectively. Both communities approved the establishment of a county/city lottery activity.
- ❑ **Since our last publication**, new manufacturer-distributor licenses have been issued to **Santa Barbara Systems Corp. and Digital Gaming Solutions, Inc.** Santa Barbara Systems Corp. has been assigned the marketing rights to the computerized keno systems formerly manufactured and marketed by Gamma International Systems, Inc. Digital Gaming Solutions, Inc. is a Columbus-based manufacturer-distributor which is developing a new computerized keno system for use in Nebraska. Testing and subsequent approval of the system have not yet been completed.
- ❑ **When was the last time** you compared your published prize payout schedule to the pay tables which reside on your computerized keno system? You may be surprised with what you discover! **Please make certain that the published schedule reflects the same payout amounts as the system.** It could prove embarrassing and costly if they don't!!!!
- ❑ **The 1997-99 license renewal** application processing has been completed. We appreciate your cooperation and patience during this hectic time for our licensing and support staff.

Part of this year's license renewal application processing was a requirement that **lottery operators file updated Personal History Records** for all owners, partners, officers, major stockholders, etc. Many of you had your Personal History Record returned to you as incomplete by the Department's Investigation Division. **Hopefully**, you have since resolved any deficiencies and refiled the completed Personal History Record with the Department. **If you have not yet done so, your prompt attention to this matter would be appreciated.** You are reminded that the Nebraska County and City Lottery Act **requires license application information to be kept current.** Any changes in the information originally submitted in the license application should be reported to the Department **within 30 days** of the change.

Audit Section Sees Improved Information on Annual Reports

The Charitable Gaming Division audit staff reports it was very pleased to see **overall improvement** by licensed organizations relative to the manner in which they filed their annual report information this past year. **Fewer mistakes and much smaller shortages** than in years past are finally being achieved.

Of the 1,139 annual reports filed by 893 licensed organizations, only six contained shortages significant enough to warrant further audit investigation and/or field visits. Only twelve organizations were placed on **monthly reconciliation** programs this past year (as compared to 21 the year before) in an effort to improve their internal controls, and **no organizations were denied** a license for failing to file an annual report or not providing an adequate explanation for shortages of their gaming funds.

The Audit Section would still like to see some improvement in the filing of lottery/raffle information, however. This year's report review included a more concentrated effort on lottery/raffle annual reports, **resulting in 13 organizations owing an additional \$3,432 in lottery/raffle tax.**

Some Organizations to Receive Fines for Late Filing

While **most organizations** and other entities licensed for charitable gaming activities are very conscientious in making sure their annual reports and license renewal applications are completed and filed in a timely manner, it is unfortunate that **a small number of licensees** either file consistently late or file well beyond the due dates required by law.

It is these late filers that cause significant problems for the Charitable Gaming Division staff. To save tax dollars and keep your license fees reasonable, we maintain a relatively small staff to review and process the thousands of charitable gaming-related licenses which are issued each year. We operate on very tight time schedules and deadlines. When annual reports or license renewal applications are received late, this often makes it difficult, if not impossible, to review and process these documents in a timely manner. As some of you have learned from personal experience, **it forces delays in issuing licenses** and necessitates our staff to work overtime in some cases to meet the deadlines imposed by law.

In an effort to eliminate some of the problems caused by these late filings, we have decided to **impose fines** for serious violations of the statutorily required filing dates. We do not take this action lightly. We realize that most of the organizations we license are charities, fraternals, etc. which don't have a lot of discretionary income and are often run by volunteers. As a result, we have chosen to impose fines only against those organizations and other entities which have **significantly** failed to meet the required filing deadlines — those which are **consistent late filers** or those which have filed reports or applications **more than two weeks late**. It is hoped that by imposing fines in these situations, these licensees will be more diligent in meeting their filing obligations in the future. It is simply not fair for the vast majority of licensees which comply with the filing requirements, to suffer by receiving their licenses late, or receiving delayed responses to inquiries because precious staff time is being spent dealing with problems caused by this small minority of non-filers and late filers.

Be forewarned that we will be taking a closer look at non-filers and late filers in 1998 as well.

Pickle Card Dispensing Device Study Group to be Appointed

Do you have an opinion on how pickle card dispensing devices should be registered, used or marketed? Do you have **concerns** about how such devices are sold, leased, serviced and maintained? If so, here is an **opportunity to make your views known** and provide input into an area which is in need of some change.

The use of pickle card dispensing devices has grown tremendously during the past several years. Technology has changed the appearance, operation and use of these devices dramatically during this same period. **It is clearly time for the Charitable Gaming Division to take a fresh, new look** at how such devices are used and regulated.

In response to this need, the State Tax Commissioner has decided to **appoint a study group** to review various aspects of pickle card dispensing devices, and make recommendations to the Department of Revenue and to the Legislature regarding ways to improve the regulation of such devices which are in use throughout the state. The study group will be formed **sometime in 1998** and most likely will be comprised of representatives from the Legislature, the pickle card industry, and our own Charitable Gaming staff.

Please fax or submit written comments or suggestions to us regarding any thoughts you might have on this topic. In addition, if you or someone you know might be **interested in serving on this study group**, please contact us at the Charitable Gaming Division, P. O. Box 94855, Lincoln, NE 68509-4855; Phone (402) 471-5937; Fax (402) 471-5608.



GAMING CALENDAR

January

- 1** **All State Offices Closed** - Happy New Year!
- 7** 1998 Legislative Session begins
- 19** **All State Offices Closed** - Martin Luther King Day
- 30** **Forms 35C and 35D due** for period ending 12/31/97, from Class II bingo and pickle card licensees
- Form 51 Tax Return and Applicable Schedules I, III, and IV Due.** Last acceptable postmark date is January 30th

February

- 16** **All State Offices Closed** - President's Day

April

- 24** **All State Offices Closed** - Arbor Day
- ?** **Last Day of 1998 Legislative Session** (Date not available at press time. Anticipated to be mid to late April)
- 30** **Forms 35C and 35D due** for period ending 3/31/98, from Class II bingo and pickle card licensees
- Form 51 Tax Return and Applicable Schedules I, III, and IV Due.** Last acceptable postmark date is April 30th

May

- 25** **All State Offices Closed** - Memorial Day

June

- 30** **End of 1997-98 Annual Reporting Period**

Want to Know More About Charitable Gaming?

Looking for a speaker for your next conference? Interested in starting a new gaming activity? In need of help understanding gaming requirements, rules, or forms? **CONTACT US!** We have staff members who specialize in gaming-related presentations both formal and informal. No group is too big or too small. Just give us a call and we will make arrangements to suit your group or organization needs **(402) 471-5937**.

Compulsive Gamblers Assistance

Gamblers Anonymous 1-800-GAMBLER (National)

- | | |
|---|---|
| <ul style="list-style-type: none"> ✓ Gamblers Anonymous (Lincoln) (402) 473-7933 ✓ Gamblers Anonymous (Omaha) (402) 978-7557 ✓ Gamblers 12 Step & Family (Omaha) (402) 978-7899 | <ul style="list-style-type: none"> ✓ Family Services (Omaha) (800) 762-0868 ✓ Nebraska Council on Compulsive Gambling (Bellevue) (402) 291-0980 |
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